

Franchise Tax Board**ANALYSIS OF ORIGINAL BILL**Author: SimitianAnalyst: Deborah BarrettBill Number: SB 31Related Bills: See Legislative HistoryTelephone: 845-4301Introduced Date: December 4, 2006Attorney: Patrick Kusiak

Sponsor: _____

SUBJECT: Identification Documents/Privacy**SUMMARY**

This bill would make it a crime to read or attempt to read personal identification documents using radio waves without the owner's knowledge or consent.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to protect personal information from identity theft.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2008, and would apply to violations occurring on or after that date.

POSITION

Pending.

ANALYSISFEDERAL/STATE LAW

Current law allows a state agency to collect personal information on individuals only to the extent it is relevant and necessary to accomplish a purpose of the agency that is authorized by statute or federally mandated. Personal information is to be collected directly from the individual, to the extent possible, and made available to the individual upon request for inspection for accuracy. Current law provides avenues for taxpayers to correct inaccurate information collected by the state agency.

Current law generally prohibits a state agency from disclosing personal information maintained in its records except in accordance with specific exceptions. The exceptions include disclosing the information to the taxpayer, the taxpayer's authorized representative, other state agencies for the purpose of fulfilling their constitutional duties, investigation purposes, or for purposes of qualifying for state sponsored assistance. The exceptions to disclosing personal information are specific and limited.

Board Position:

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Department Director

Date

Lynette Iwafuchi For
Selvi Stanislaus

12/27/06

Current federal law contains similar provisions for the protection of an individual's personal information maintained within a federal agency's system of records. These provisions identify exceptions that permit disclosure of personal information, as well as procedures to obtain a copy of personal information, address errors, and accounting for disclosures made by the agency.

THIS BILL

This bill would make it a crime to intentionally remotely read or attempt to remotely read a person's identification documents using radio waves without the owner's knowledge or prior consent. The crime established under this bill would be punishable by imprisonment in a county jail for up to one year a fine of not more than \$5,000 or both.

The bill would exempt certain instances of reading identification documents by radio waves for purposes that range from providing medical services to law enforcement efforts. Because the department does not use radio waves in its daily operations, these exemptions are not discussed in this analysis.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not impact the department programs or operations because the department utilizes an alternative technology to radio wave devices in its badge system.

PROGRAM BACKGROUND

Franchise Tax Board (FTB) currently uses an electronic badge system to secure FTB facilities. Each employee is required to wear a badge that contains an electronic device that will identify and record the location and time each individual in the department enters the facility by placing the badge on a reader. The badges issued by the department to personnel are embedded with a number that when activated access a secure database controlled by security staff that displays the picture identification and name associated with the card number. As such, the badges used by the department are free of personal information.

LEGISLATIVE HISTORY

SB 30 (Simitian, 2007) contains provisions relating to the remote reading of identification documents as found in SB 768. This bill was introduced December 4, 2006 and has not yet been scheduled for hearing.

SB 768 (Simitian, 2005/2006) contained identical provisions regarding the use of remote devices and security of personal information as SB 682. SB 768 was vetoed by Governor Schwarzenegger on September 30, 2006. In his veto message, the Governor stated that the bill "...may inhibit various state agencies from procuring technology that could enhance and streamline operations, reduce expenses, and improve customer service to the public...and may unduly burden the numerous beneficial new applications of contactless technology."

SB 682 (Simitian, 2005) contained identical language regarding the use of remote devices and the security of personal information. SB 682 was held in the Assembly Appropriations Committee.

SB 168 (Bowen, Stats. 2001, Ch. 720) prohibited any person or entity, not including a state or local agency, from using an individual's social security number in certain ways, including posting it publicly or requiring it for access to products or services.

SB 25 (Bowen, Stats. 2003, Ch. 907) extended requirements restricting use of social security numbers to state and local agencies, subject to specified exceptions.

OTHER STATES' INFORMATION

The states reviewed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. No comparable statutes prohibiting state use of devices utilizing radio waves were found.

FISCAL IMPACT

This bill would not impact the department's costs because radio wave technology is not used by the department.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenues.

LEGISLATIVE STAFF CONTACT

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